



IN THE HIGH COURT AT CALCUTTA
[CIRCUIT BENCH AT PORT BLAIR]

SAT/15/2024

Shri A. Alagu

Vs.

The Andaman and Nicobar Administration and others

Mr. KMB Jayapal
Mr. C. Mano

... for the appellant

November 13, 2024
[SR]
Item no. 2

1. The instant second appeal is directed against the judgment and order dated 07.08.2024 passed in Title Appeal No.13 of 2020.

2. By the said judgment, the Lower Appellate Court affirmed the judgment dated 27.11.2023 passed in Title Suit No.45 of 2020. The First Court has dismissed the suit under the provision of Order VII Rule 11 of the Code of Civil Procedure filed by the defendant in the suit.

3. The second appeal shall be heard on the following substantial questions of law.

(a) Does the bar under section 204 of the Andaman and Nicobar Islands Land Revenue and Land Reforms Regulation, 1966 apply to a person who occupies beyond extent of 200 Sq.mtrs of land in an urban area?

(b) Can a plaint be rejected in a summary form under Order VII Rule 11 of the Code of Civil Procedure when the Regulation 34 and Regulation 202(7) of the Regulation 1966 permits an unauthorized occupant of urban land to establish his right to extent of the land



encroached by him and seek regularisation of the same in his favour?.

(c) Is the prayer for declaration made by the appellant in the plaint not maintainable as found by the two Courts below?.

(d) Does the Circular dated 17.08.1987 have the force of law to restrict encroachment and occupation of the government land by a person to 200 Sq.mtrs in an urban area ?.

(e) Could the Courts below arrive at a conclusive finding against the petitioner as regards his claim in the suit in a summary manner under Order VII Rule 11 Code of Civil Procedure without a proper trial on evidence.?

4. The second appeal shall be heard, *inter alia*, on the above substantial questions of law and any other questions that the Single Bench deem fit and proper in the facts of the case and the grounds in the memorandum of appeal may also be considered by the Single Bench while deciding the second appeal.

5. Let the Trial Courts Records be called for.

6. The appellant shall prepare sufficient number of paper books and file the same in the Court below within a period of six weeks of the notification of arrival of the Trial Courts records.

7. Let notice of appeal be served on the respondent.

8. Liberty to mention.



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9. Pending hearing of the second appeal, the Tehsildar is restrained from evicting the petitioner from the land being occupied by the petitioner/appellant.

(Rajasekhar Mantha, J.)

(Partha Sarathi Sen, J.)